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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 DIEGO RIVERA-VAZQUEZ,
15 Defendant.

Case No.: 13cr1307-CAB


**ORDER DENYING SECOND
MOTION FOR
RECONSIDERATION [Doc. No. 64]]**

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17 Before the Court is defendant Diego Rivera-Vazquez's second motion for
18 reconsideration of the Court's order of April 9, 2019. [Doc. No. 64.] Defendant
19 continues to incorrectly calculate his amended guideline at 28, based upon his incorrect
20 assumption that the adjustment for mitigating role should continue to be a 4. However,
21 as previously explained, when the base offense level is a 36, then the mitigating role
22 reduction reduces the base offence level by three points, NOT four points.
23 USSG§2D1.1(a)(5). Therefore, with a recalculated base offense level of 36, the
24 mitigating role reduction reduces the base offence level by three points to a 33. The base
25 offense level of 33 is then reduced two points for the corresponding minor role
26 adjustment to 31. Finally, after adjusting two points for acceptance of responsibility, the
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1 defendant's amended adjusted base offense level is a 29. The Court's April 9, 2019 order
2 was correct, and defendant's second motion for reconsideration is **DENIED**.

3 **IT IS SO ORDERED.**

4 Dated: May 24, 2019



Hon. Cathy Ann Bencivengo
United States District Judge